

ITEM: 18

SUBJECT: Conditional Waiver Of Waste Discharge Requirements for Small Food Processors and Small Wineries within the Central Valley Region

BOARD ACTION: *Consideration of New Conditional Waiver*

BACKGROUND: The California Water Code section 13269 allows the Water Boards to waive waste discharge requirements (WDRs) for specific types of discharge when a waiver is not against the public interest. Certain types of discharges have been waived by the Central Valley Water Board through the years. In 1999, the California Water Code was revised to terminate existing waivers by 2003 and limit the term of new conditional waivers to five years. In response, the Central Valley Water Board adopted Resolution No. R5-2003-0106, which waived WDRs for certain land discharges from small food processors and small wineries. Resolution No. R5-2003-0106 expired on 11 July 2008.

During the five year term of the waiver allowed by Resolution No. R5-2003-0106, about 97 facilities were granted a waiver of WDRs. Although the waiver has expired, these existing facilities continue to need regulatory coverage and many new facilities have applied for coverage.

The proposed Order is similar to the previous waiver and conditionally waives WDRs for the following activities:

1. Land application of a limited volume of food processing wastewater to irrigate crops or landscaping;
2. Land application of a limited volume of residual solids to amend soils in cropped or landscaped areas; and
3. Storage of any volume of process wastewater in a tank on-site prior to transporting it off-site for disposal.

Similar to Resolution No. R5-2003-0106, the proposed Order imposes conditions of discharge that require dischargers to (1) minimize or eliminate discharges of pollutants that could affect beneficial uses, and (2) manage the discharges to prevent and minimize water quality degradation. These conditions include, but are not limited to:

1. Land discharge of water softener regeneration brine, boiler blowdown, stillage, or other high salinity waste is prohibited. Such wastes must be disposed of off-site at an appropriately permitted facility.
2. Liquid waste and residual solids must be applied to cropped or landscaped areas at rates that match the water, nitrogen, and other crop nutrient needs of the vegetation grown.

3. Site-specific conditions of discharge as deemed appropriate by the Executive Officer.

Changes from Resolution R5-2003-0106 include the following items:

- Addition of antidegradation findings to comply with State Water Resources Control Board Resolution No. 68-16.
- An increase in the volume of wastewater discharged to land from 100,000 gallons per year to 120,000 gallons per year.
- An increase in the volume of residual solids discharged to land each year that is equivalent to the 20,000 gallon per year wastewater volume increase,.
- New discharge conditions for land application of residual solids that are putrescible (readily degradable with a significant moisture content).
- Addition of a Report of Waste Discharge (RWD) Technical Information form to clarify the technical requirements for the RWD and enable staff to quickly evaluate whether a RWD is complete and adequate.
- Addition of an Annual Monitoring Report form to clarify the requirements for monitoring reports and ensure consistent report content and format.
- Editorial revisions to clarify the waiver's applicability and conditions of discharge.

The Central Valley Water Board has the authority to enforce the conditions of a waiver in a manner similar to its authority to enforce requirements in WDRs.

ISSUES:

The California Sportfishing Protection Alliance (CSPA) is contesting the proposed Order. Staff responses to all public comments are contained in the Response to Comments document included in the Central Valley Water Board's agenda package.

Additional comments were submitted by Dan Hinrichs on behalf of the El Dorado Winery Association 8 September 2009, after the close of the public comment period. These comments provide technical information to support Comment No. 11, which requests relief from the proposed prohibition of land discharges of waste from evaporative cooling systems. The late comments were received in time for staff to carefully consider them and they are therefore accepted into the public record for this item. They are included in the agenda package and discussed in the Response to Comments under Comment No. 11.

Staff has identified two options for the Board's consideration to address Comment No. 8, which requests relief from the requirement to submit another application fee for those dischargers that were

covered under, and fully complied with, the previous waiver. The Board may consider two options to address this request. The first option, which is included in the proposed waiver, requires that all applicants (including those covered under the previous waiver) submit an application and a one-time application fee (currently \$1,226) to obtain coverage under the proposed waiver.

The second option is to waive the application fee only for those dischargers that:

- a. Obtained coverage under the previous waiver and paid an application fee at that time;
- b. Have not had a significant change in the character of their waste or waste management practices, and will certify that in writing (a simplified version of the application form would be provided for this purpose);
- c. Submitted all of the required monitoring reports required by the previous waiver, complete and on time; and
- d. Did not have any documented violations of the previous waiver.

Of the 97 dischargers that obtained coverage under the previous waiver, 62 violated the waiver. Therefore, 35 existing dischargers may potentially be eligible for a no-fee enrollment under this option. This option would result in lost revenue of up to \$43,000 to the Waste Discharge Permit Fund. The revenue loss would be incurred in Fiscal Year 2009-2010 if all of those eligible apply for coverage within 90 days of adoption of the proposed waiver (as required). There would be no revenue loss in the subsequent four years of the waiver term.

Under the recently adopted Waiver of Reports of Waste Discharge and Waste Discharge Requirements for Specific Types of Discharge Within the Central Valley Region (Resolution No. R5-2008-0182), the no-fee option is available only to land discharges where the threat is so low that not even a Report of Waste Discharge is required. These include discharges of non-contact cooling water, drilling muds/boring wastes, inert solid waste, test pumping of fresh water wells, swimming pool discharges, construction dewatering, hydrostatic testing of pipelines that have only contained potable water, and one-time discharges of agricultural commodity wastes. However, the no-fee option does not automatically apply, and dischargers are supposed to contact staff to discuss their case for a determination. Additionally, the discharges that would be regulated under the proposed waiver were not included in Resolution No. R5-2008-0182 specifically because staff believes that a higher level of regulation is needed to ensure compliance with the Basin Plan.

RECOMMENDATION: Staff Recommends Board adoption of Waiver.

Mgmt. Review _____

Legal Review LT0

7/8October 2009

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